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Harness Dickey & Pierce P L C
P O Box 828
Bloomfield Hills, MI 48303

EXAMINER

ALAM, UZMA

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2157

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Please find below and/or attached an Office communication concerning this application or proceeding.

Response to After Final Arguments

This action is responsive to the arguments filed on July 6, 2006. Claims 1-50 are pending. Claims 1-50 represent a system and method for a media playback system connected to a network.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 50 recites the limitation "method" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by White US Patent Publication No. 2001/0027561. White teaches the invention as claimed including video on demand method and systems (see abstract).

As per claims 1 and 24, White teaches the continuous play broadcast system and method comprising a continuous play broadcast system comprising:

a distributed communications system (Figure 1, 20);

a playback control device that is connected to said distributed communications system and that includes an output device, memory that stores digital media files and a continuous play program, and a controller that outputs said digital media files to said audio output device according to said continuous play program wherein said media files include at least one of audio, video and announcements (Entertainment Head-End, Figure 1, 12; pp 0024);

a computer that is independent from said playback control device and that is connected to said distributed communications system and using a computer to access a web site via said distributed communications system and a web browser that are remote from said web site and that are independent from said playback control device (client, Figure 1, 14; pp 0027); and

a web server that is connected to said distributed communications system and to a master library of said digital media files, wherein said computer accesses said web server via said distributed communications system and via said website to alter said continuous play program for said playback control device (Proxy server, Figure 1, 24; pp 0020).

As per claims 47 and 49, White teaches the continuous play broadcast system and method of claims 1 and 24 wherein said computer alters continuous play programs for a plurality of said playback control devices (pp 0024, 0040-0042).

As per claims 48 and 50, White teaches the continuous play broadcast system and method of claim 1 wherein said computer groups at least two of said playback control devices and creates a common continuous lay program for said at least two of said playback control devices (pp 0020-0027, 0040-0042),

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 6-12, 14, 16, 17, 19-23, 25, 29-35, 37, 39, 40 and 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over White US Patent Publication No. 2001/0027561 in view of Krikorian US Patent No. 5,726,909. Krikorian teaches the invention as claimed including a continuous play of background music system.

As per claims 2 and 25, White teaches the continuous play broadcast system and method of claims 1 and 24. White does not teach wherein said computer includes a browser module for accessing said web server and wherein said web server transmits executable files to said

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computer for creating said continuous play program. Krikorian teaches wherein said computer includes a browser module for accessing said web server and wherein said web server transmits executable files to said computer for creating said continuous play program (column 4, lines 27-40; column 5, lines 10-18; column 7, lines 36-45). It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine functions of the continuous play program of Krikorian with the playback control device and web server of White. A person of ordinary skill in the art would have been motivated to do this to allow for changes in the continuous play program.

As per claims 6 and 29, White and Krikorian teaches the continuous play broadcast system of claims 2 and 25 wherein said executable files allow said computer to select a plurality of predetermined collections of said digital media files, to allocate relative percentages of time at which digital media files from respective collections are played to said plurality of predetermined collections and to create a composite collection that randomly selects said digital media files from said collections based on said allocated percentages (Krikorian column5, lines 33-43).

As per claims 7 and 30, White and Krikorian teaches the continuous play broadcast system of claims 6 and 29 wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to increase or decrease the

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relative frequency at which said at least one of said digital media files is played in said composite collection (Krikorian column 5, lines 44-50).

As per claims 8 and 31, White and Krikorian teaches the continuous play broadcast system and method of claims 6 and 29 wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to prevent said at least one of said digital media files from playing in said composite collection (Krikorian column 5, lines 51-67).

As per claims 9 and 32, White and Krikorian teaches the continuous play broadcast system and method of claims 6 and 29 wherein said executable files allow said computer to select at least one of said digital media files within said predetermined collections and to prevent said at least one of said digital media files from playing during preselected times in said composite collection (Krikorian column 5, line 51-67).

As per claims 10 and 33, White and Krikorian teaches the continuous play broadcast system and method of claims 6 and 29 wherein said executable files allow said computer to assign said predetermined collections to a time-based schedule that forms part of said continuous play program (Krikorian column 6, lines 36-64).

As per claims 11 and 34, White and Krikorian teaches the continuous play broadcast system and method of claims 10 and 33 wherein said executable files allow said computer to assign said composite collection to said time-based schedule (Krikorian column 6, lines 36-64).

As per claims 12 and 35, White and Krikorian teaches the continuous play broadcast system and method of claims 10 and 33 wherein a smallest time unit provided in said time-based schedule can be varied (Krikorian column 6, lines 36-64).

As per claim 14 and 37, White and Krikorian teaches the continuous play broadcast system and method of claims 2 and 25 wherein said executable files allow said computer to access continuous play programs for a plurality of said playback control devices (Krikorian column 5, lines 10-50).

As per claims 16 and 39, White and Krikorian teaches the continuous play broadcast system and method of claims 2 and 25 wherein said executable files allow said computer to display a digital media file that is currently being played by said playback control device and at least one digital media file that follows said digital media file that is currently being played (Krikorian column 5, lines 51-67).

As per claims 17 and 40, White and Krikorian teaches the continuous play broadcast system and method of claims 16 and 24 wherein said web server delivers at least one digital

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media file to said computer as a streaming media file for output to said output device connected to said computer (Krikorian column 4, lines 27-40).

As per claims 19 and 42, White and Krikorian discloses the continuous play broadcast system and method of claims 2 and 25 wherein said executable files allow said computer to select business hours to operate said playback control device (Krikorian column 6, lines 65-67; column 7, lines 1-6).

As per claims 20 and 43 White and Krikorian discloses the continuous play broadcast system and method of claims 2 and 24 wherein said web server includes a password logon security module for accessing said continuous play programs (Krikorian column 4, lines 15-26).

As per claims 21 and 44 White and Krikorian discloses the continuous play broadcast system and method of claims 2 and 24 wherein said master library further contains at least one of digital announcement files, video files, and text/graphics files (Krikorian column 3, lines 9-17).

As per claim 22 and 45, White and Krikorian discloses the continuous play broadcast system and method of claims 21 and 25 wherein said executable files allow said computer to schedule at least one of said digital announcement files in said continuous play broadcast of said playback control device (Krikorian column 6, lines 16-67; Figure 4).

As per claims 23 and 46, White and Krikorian discloses the continuous play broadcast system and method of claims 22 and 25 wherein said executable files allow said computer to schedule at least one of said digital announcement files and said video files in said continuous play broadcast of said playback control device on a recurring basis (Krikorian column 6, lines 58-64).

Claims 3, 5, 13, 15, 18, 26, 28, 36, 38 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over White US Patent Publication No. 2001/0027561 in view of Krikorian US Patent No. 5,726,909 in further view of Leek et al. US Patent No. 6,587,127. Leeke discloses the invention substantially as claimed including a content player with user profile.

As per claims 3 and 26, White and Krikorian discloses the continuous play broadcast system and method of claims 2 and 25. White and Krikorian does not disclose wherein said executable files are at least one of Active-x components, Java Applets and Java Script. Leeke discloses Java Applet files. See column 4, lines 50-67. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the Java Applets of Leeke with the executable files of White and Krikorian. A person of ordinary skill in the art would have been motivated to do this to accommodate a variety of browsers.

As per claims 5 and 28, White and Krikorian discloses the continuous play broadcast system and method of claims 2 and 24 wherein said executable files allow said computer to select and manage custom playlists by selecting a plurality of said digital media files from said

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master library and by allowing at least one of sequencing said digital media files and playing said digital media files. See column 4, lines 59-67; column 5, line 1-32. White and Krikorian does not explicitly disclose randomly playing the files. Leeke discloses randomly playing the files. See column 8, lines 3-31. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine playing of White and Krikorian with randomly playing of Leeke. A person of ordinary skill in the art would have been motivated to do this to provide personalized content.

As per claims 13 and 36, White and Krikorian teaches the continuous play broadcast system and method of claims 2 and 24. White and Krikorian does not disclose wherein said executable files allow said computer to select and arrange custom collections by allowing at least one of selecting a plurality of said digital media files from said master library and by sequencing said digital media files and randomly playing said digital media files. See column 6, lines 11-20; column 8, lines 4-31; column 48, lines 48-67. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine playing files of White and Krikorian with selecting files of Leeke. A person of ordinary skill in the art would have been motivated to do this to provide personalized content.

As per claims 15 and 38, White and Krikorian teaches the continuous play broadcast system and method of claims 14 and 25. White and Krikorian does not disclose wherein said executable files allow said computer to group at least two of said playback control devices and to create a common continuous play program for said at least two of said playback control devices. Leeke discloses grouping two playback control devices. See column 49, lines 36-65. It would

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have been obvious to a person of ordinary skill in the art at the time of the invention to combine playback control devices of White and Krikorain with grouping the devices of Leeke. A person of ordinary skill in the art would have been motivated to do this to integrate audio and video files.

As per claims 18 and 41, White and Krikorian teaches the continuous play broadcast system and method of claims 1 and 24. White and Krikorian does not disclose wherein said web server stores a profile for said playback control device. Leeke discloses storing a profile. See column 6, lines 11-20. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine a profile of Leeke with the web server and library of White and Krikorain. A person of ordinary skill in the art would have been motivated to do this to manage user data and preferences.

Response to Arguments

5. Applicant's arguments with respect to claims 1-3, 5-26 and 28-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 5:30 AM - 2:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam
Ua
July 25, 2006

ABBULLAHISALAD
PRIMARY
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